

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 325 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SWARNALATA GAEKWAD

Versus

YAGNESH MAGANBHAI PATEL

Appearance:

MR AD OZA for Appellant

MR BC DAVE for Respondent No. 1

MR PB MAJMUDAR for Respondent No. 2

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 16/09/98

ORAL JUDGEMENT

1. Heard the learned counsel for the appellant, learned counsel for respondent no.1 and learned counsel for respondent no.2. As a result of the hearing and discussion, a consensus has been arrived at between the learned counsel for the respective parties on the basis of which it is directed as under.

- (i) Special Civil Suit No. 451/97 and Special Civil Suit No. 255/98 are consolidated i.e. they shall be heard and tried together by the court of Civil Judge (Senior Division), Baroda.
- (ii) The appellant Swarnalata Gaekwad has filed an application in Special Civil Suit No. 451/97 for being joined as party-defendant (on 11th July, 1997 at exh. 13). By consent of the plaintiff of that suit, namely Yagnesh Maganbhai Patel, the said application stands allowed. The trial court is at liberty to pass the consequential orders which may be required to complete the formality.
- (iii) In Special Civil Suit No. 451/97, an ad interim injunction has been issued and is in operation in favour of the plaintiff and against the defendant of that suit namely Melabhai. That ad interim injunction shall be heard on merits and decided in the light of the evidence on record by the trial court together with the injunction application at exh. 5 in Special Civil Suit No. 255/98. It is clarified that the said decision viz. order below exh. 5 in Special Civil Suit No. 255/98 (which is the subject matter of the present appeal) is set aside, with a view to enable the trial court to finally decide both applications at exh. 5 in the two suits. It is understood and clarified that the trial court while deciding these two applications on merits and on the basis of the evidence on record, shall not be influenced by the order which is the subject matter of the challenge in the present appeal.
- (iv) The trial court shall hear and dispose off the two applications as aforesaid latest by 16th October, 1998. Learned counsel for the respective parties assure the Court that the respective parties shall cooperate with the trial court in the disposal of the two application by the said date. For this purpose, the trial court shall have the discretion to refuse unnecessary adjournments or to impose conditions while granting adjournments.
- (v) Until these two applications are finally disposed off as aforesaid, the present status quo as at today, shall continue.

2. In view of these directions, the present appeal is not pressed and is accordingly disposed off with no

order as to costs.

Amp/-